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APPROVED MINUTES

Board of Building Regulations and Standards (BBRS) Department of Public Safety, 50 Maple Street, Milford, MA 01757 December 8, 2015 at 1:00 p.m.

1. RC opened the meeting at 1:10 PM, and roll call was taken.

Richard Crowley V-Chair (RC)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent	Thomas Perry (TP)	<input type="checkbox"/> present	<input checked="" type="checkbox"/> absent
Robert Anderson (RA)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent	Stephen Coan (SC), or designee*	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent
John Couture (JC)	<input type="checkbox"/> present	<input checked="" type="checkbox"/> absent	Michael McDowell (MM)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent
Kevin Gallagher (KG)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent	Monica Simmons (MS)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent
Jerry Ludwig (JL)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent	General Contractor of		
Alexander "Sandy" MacLeod (SM)	<input checked="" type="checkbox"/> present	<input type="checkbox"/> absent	Commercial Buildings (<i>open slot</i>)	<input type="checkbox"/> present	<input checked="" type="checkbox"/> absent

* Jacob Nunnemacher (JN) participated as designee for SC.

ALSO IN ATTENDANCE (DPS staff and committee members). Others in attendance listed in attached Audience Sign-In Sheet (**EXHIBIT H**):

- o Deirdre Hosler ("DH"), Deputy General Counsel;
- o Felix Zemel ("FZ"), Technical Director;
- o Robert "Bob" Carasitti ("BC"), Chair of Fire Prevention Fire Protection Committee;
- o Gordon Bailey ("GB"), State Building Inspector;
- o William Horrocks ("WH"), State Building Inspector

General notes on format:

- o Votes are noted as **Motion** by, Second by, and whether the vote was unanimous or split (if split, will list the vote in the order of: yea, nay, and abstain).
- o The December 8, 2015 Agenda is listed as **Exhibit A**; others are listed sequentially as addressed during the meeting

2. The Draft October 13, 2015 meeting minutes (**Exhibit B**) were reviewed.

MOTION by MM to accept the minutes of the October 13, 2015 BBRS meeting, following any edits submitted by JN. **SECOND** by RA.

DISCUSSION: FZ noted that JN had previously noted that DFS would be submitting revisions prior to a final draft, between the November and December meetings. JN responded that those were just editorial and spelling corrections, not substantive changes, and that he would submit them to DPS staff for correction.

VOTE Unanimous

3. The Draft November 10, 2015 meeting minutes (**Exhibit C**) were reviewed.

MOTION by MM to accept the minutes of the November 10, 2015 BBRS meeting. **SECOND** by RA.

VOTE Unanimous.

4. JN, through the Chair, recommended that staff introduce MS, as this was her first meeting. MS provided a brief description of her background.
5. **Review of 780 CMR 9th Edition topics and schedule.** FZ noted that he does not have a formal presentation for today's review. FZ reported that the draft 9th edition was presented to the BCCC in November, and that it had received its first, second and final read at the same meeting. FZ also reported that it had been approved by the BCCC with conditions, many of which are the cause of the items to be voted during the current BBRS meeting.
- a. **Review and Vote errata submitted to DPS/BBRS staff by DFS staff.** FZ explained that these are items that were identified as errata by both DFS staff and DPS staff during their reviews of the draft 9th edition. These are not substantive changes, but more grammatical and typographical in nature.

MOTION by KG to approve all of the submitted errata (**Exhibit D**) as an entire group. **SECOND** by RA.

VOTE Unanimous.

MOTION by MM to permit staff to correct simple clerical errors, administratively, up until promulgation of the 9th Edition. **SECOND** by SM.

DISCUSSION: JN and Jennifer Hoyt ("JH") requested that the motion be revised to have the list of all changes be submitted to the BBRS for review at a public meeting. MM and SM agreed with this amendment.

VOTE Unanimous

- b. **Section 101.4.14 Residential Contracting.** FZ explained that this item should be combined with **Section 110.R6** and the same associated section in the Residential Volume, and it has to do with the Home Improvement Contractor Registration. FZ explained that staff is recommending elimination of R6, and leaving it as "reserved", and creation of this new subsection to direct persons subject to HIC registration to the appropriate statute and registration in the same place as we reference other specialized codes and requirements. DH said that she agrees that sufficient time has passed since the transition of the HIC program to OCABR, and that these changes make sense.

MOTION by MM to: 1) eliminate 110.R6, and mark it "reserved"; 2) add subsection 101.4.14, as proposed; and 3) to add the same to the corresponding section in the Residential volume.

SECOND by SM.

VOTE Unanimous.

- c. **Section 308.6.1** FZ explained that the recommended change is to be in line with past practice and state law, and to not conflict with ECE and early intervention requirements.

MOTION by MM to approve the change, as proposed. **SECOND** by JL.

VOTE Unanimous

- d. **Section 310.6** FZ explained that this change is to make the section clearer, and to be consistent with the statutory requirements.

MOTION by MM to approve the change, as proposed. **SECOND** by RA.

VOTE Unanimous

- e. **Section 427.13 and Table 427.13** FZ explained that this was presented to the FPPF Committee, and they recommended the changes, as presented to the Board, for both the Table and the Section. This brings consistency with 527 CMR and completes two of the conditions of the BCCC approval. BC explained that, in many circumstances, the proposed changes (which mirror 527 CMR) are less restrictive than the original draft 9th edition Maximum Allowable Quantities.

MOTION by MM to approve the changes, as proposed. **SECOND** by KG.

VOTE Unanimous.

- f. **Section 901.1.** FZ explained Section 901.1 requires three votes, and that they should be taken in opposite order from that which is listed on the exhibit. FZ and BC explained the vote and recommendation of the FPPF committee on 12/4/15 with regard to a building official being required for approval of the emergency responder radio. FZ reminded the board that even if the Fire Official is given exclusive right over approval, the Building Official has the final say over issuance of the permit, and an aggrieved applicant can always appeal to the Building Code Appeals Board if they would like. GB noted that he has no problems with the Fire Official choosing the radio. JN reminded the board that having it be exclusively the fire official would be identical to what is currently in the 8th Edition of 780 CMR. Dan Walsh (“DW”) from the MA Federation of Building Officials said that the Building Official typically works through any of these types of issues with the Fire Official, and that he doesn’t know of any historical problems with regard to this issue being sole Fire Official. WH asked if a Fire Official can bring a person before the BCAB. DH noted that only an aggrieved party can appeal to the BCAB, if a permit is (or is not) issued, or with regard to conditions issued on a permit.

MOTION by KG to add a new note between the current Notes 2 and 3 that states “Note 3. In subsections 916.1 through 916.6.3, the term ‘fire code official’ is to be substituted with the term ‘fire official’”.

SECOND by JN.

VOTE 6 in favor (RA, MM, MS, KG, JN, JL) 1 opposed (SM); 1 abstain (RC)

MOTION by MM to change “add two notes” to “add four notes”, and to change the original “Note 3” to “Note 4”.

SECOND by KG.

VOTE Unanimous

- g. **Section 903.2 Where required.** FZ explained that the topic for discussion is how references to the enhanced sprinkler statutes will be presented in the 9th Edition. FZ explained that the Board has three options: 1) leaving it as previously approved; 2) addition of the exact statutory language; or 3) using the language recommended for Subsection 101.4.5 in Exhibit D. FZ explained that resolution of the language is needed in order to comply with the BCCC approval conditions. FZ explained that the statutory language recommendation was a formal code change proposal by the MFBO, and requires a formal vote, as well. FZ also asked the BBRS if they would like to incorporate the same language into Section 101.4.5.

MOTION by MM to *not approve* the amendment, proposed by the MFBO, for addition of the statutory language into the 9th Edition of 780 CMR.

SECOND by RA.

DISCUSSION: DH explained that including the statutory language in the regulation can be problematic, and is not good practice. Problems may arise if the statute changes, for example.

VOTE: 7 in favor (RA, MM, MS, KG, JN, JL, SM); 1 abstain (RC)

MOTION by MM to add the proposed language, listed for Subsection 101.4.5, into both sections 101.4.5 and 903.2, as proposed.

SECOND by KG.

VOTE Unanimous

- h. **Subsections 13:C407.6.1.3 through 13:C407.6.1.5.** FZ explained that these were previously approved by the BBRS in November, but the language was not fully developed. FZ felt that it would be prudent to have the Board formally vote on the language, as developed by DPS and DOER staff.

MOTION by MM to approve the language, as presented. **SECOND** by RA.

VOTE Unanimous

- i. **Section 1403.5 and Subsections 1407.10.4 and 2603.5.5** FZ explained that these were originally proposals from the BSA Building Envelope Workgroup, and were all discussed at the FPPF Committee on 12/4. BC explained that FPPF recommended approval of the proposals for Section 1403.5 and Subsection 1407.10.4, and recommended denial of the proposed code change for Subsection 2603.5.5.

MOTION by SM to approve the recommendations of the FPPF Committee. **SECOND** by RA.

VOTE Unanimous

- j. **Subsection 34:301.1.** FZ explained that the proposed language is to the general requirements for all existing buildings, and that it directs the user to Section 101.4.5 of the Base Code.

MOTION by MM to approve the language, as proposed. **SECOND** by JN.

VOTE Unanimous.

- k. **Subsection 34:Table 301.1.4.1.** FZ explained that the SAC recommended elimination of the table, which has been problematic in recent times, and replace it with language which the SAC is currently developing. DH recommended elimination of the Table, but waiting for SAC to present its proposed language, instead of approving it before it is written.

MOTION by MM to eliminate the Table, and to revisit the language at a later meeting or during Public Hearing.

SECOND by SM.

VOTE Unanimous

- l. **Section 34:302.8.** FZ explained that SAC recommended deletion of the “5” that is currently there, and replacing it with “907.4”.

MOTION by MM to approve the recommendation, as proposed. **SECOND** by SM.

VOTE Unanimous.

- m. **Subsection 34:1401.1.2.** FZ explained that this was at the request of GB. GB explained the rationale for this section, and said that it was present in the prior editions of the code, as well. This process ensures that the BBRS, and staff, are informed of any compliance alternatives, and to be able to see if new code changes are needed for certain topic areas.

MOTION by SM to approve the wording, as proposed. **SECOND** by MM.

VOTE Unanimous

- n. **Subsection 110.R3.3.2, Item #12.** FZ explained that the word “his” is not needed in this context.

MOTION by JN to approve the wording, as proposed. **SECOND** by KG.

VOTE Unanimous

- o. **Subsection 110.R5.2.8.** FZ and DH explained the rationale behind these recommended changes, specifically that they are in response to requests from sister agencies. Paul Moriarty (“PM”) asked about the OSHA provisions in the proposed wording. MM noted that OSHA does not typically issue violations against individuals, but against companies, and that the OSHA provisions would likely not be applicable to CSL holders. SM was concerned about the vague nature of “good moral character”. RA and DH explained what was meant by “good moral character”.

MOTION by MM to approve the wording, as proposed. **SECOND** by SM

VOTE Unanimous

- p. **Subsection 110.R7.1.5.1.** FZ explained that this would eliminate one at-large position, and replace it with a representative of the Metrowest Building Officials Association (“MWBOA”). Robert Berger (“RB”), President of MWBOA, said that he supports this recommendation, and appreciates the recognition of MWBOA by the BBRS. WH was concerned because the at-large member is very important for the group, and should stay. FZ noted that inclusion of the at-large member would result in an odd number of members, and votes may be difficult if they are split. GB noted that there were recently some difficulties establishing a quorum, but that he feels the at-large position

is vital to the board. RC and RA explained that if a quorum is difficult with the current membership, it may be more difficult in the number of members was increased by one.

MOTION by MM to approve the original amendment, as proposed. **SECOND** by SM.
VOTE Unanimous.

- q. **54: Table N1106.4.1** FZ explained that the table may be easier to read if the orientation were rotated.

MOTION by JN to approve the change, as approved. **SECOND** by MM.
VOTE Unanimous.

- r. **54:Chapter 2** FZ explained that GB requested the change in the definition of Lodging House, and that the re-establishment of Windborne Debris Region was at the request of the Cape Cod Cooperative Extension. PM raised concerns about the term “guest room” under the lodging house definition. Shannon Jarbeau (“SJ”) explained the rationale behind the request: improve ISO BSEGS ratings, and reduce flood insurance rates.

MOTION by MM to approve the lodging house definition, as proposed by GB. **SECOND** by RA.
VOTE Unanimous

MOTION by MM to restore the windborne debris region definition to virgin IBC language, as proposed.
SECOND by SM.
VOTE Unanimous.

- s. **54: Table R301.2(1).** FZ explained that this change would direct people to the new definition.

MOTION by MM to approve the change, as proposed. **SECOND** by RA.
VOTE Unanimous.

- t. **54:R301.2.1.2.** FZ explained that this is restoring the original wording regarding opening protection in windborne debris regions.

MOTION by RA to approve the wording, as proposed. **SECOND** by SM.
VOTE 7 in favor (RC, RA, SM, JN, JL, KG,MS); 1 opposed (MM)

- u. **54:R310.2.1.** FZ explained that this change was proposed by GB correct some placement errors in the original text, and be more in line with prior editions. MM requested that the words “single hung or ...” be added at the beginning of the wording.

MOTION by MM to approve the change, with the addition of “Single Hung or ...” at the beginning of the sentence.
SECOND by KG.
VOTE Unanimous

- v. **54:R404.1.7.** FZ noted that GB submitted this proposal. GB explained his rationale for requiring this additional wording.

MOTION by MM to approve the change, as proposed. **SECOND** by SM.
VOTE Unanimous.

- w. **54:N1103.3.3** FZ noted that the chair may want this item tabled until a different meeting. RC agreed and tabled the item for discussion at a later meeting of the BBRS.

- x. **54:AJ102.3.3** FZ noted that this was an item that was previously missed, but was noted by GB as an item to be corrected upon review.

MOTION by JN to approve this change, as proposed. **SECOND** by MM.
VOTE Unanimous.

- y. **54:AJ102.7.1** FZ explained that this is in order to bring consistency with previous editions of 780 CMR. This again was a recommendation of GB.

MOTION by MM to approve the change, as proposed. **SECOND** by JN.
VOTE Unanimous.

- z. **54:AJ401.2.1** FZ explained that this proposed change is in order to be consistent with the terminology throughout rest of the codes.

MOTION by MM to approve the change, as proposed. **SECOND** by KG
VOTE Unanimous.

- aa. **EO562 Process** DH provided an update on the EO562 process. She explained that staff would like to go forward with filing for a public hearing once the paperwork is completed.

MOTION by MM to permit staff to proceed with filing for a public hearing, as required by law, once the administration permits staff to do so.
SECOND by SM.
VOTE Unanimous

6. **Status** update or review and/or approval of action items from previous meetings:

- a. RC noted that he will be tabling edits to the May 13, 2014 White Paper on the cost effectiveness of building code requirements in 3- to 6-unit residential buildings until after January, 2016.
- b. Discussion of the DPS training on window replacement in commercial buildings was placed on hold.
- c. Review of enforcement of M.G.L. c. 148, Sec. 26G was placed on hold.

7. **Considerations** by the Board.

- a. **MOTION** by SM to approve one (1) new Native Lumber producer. **SECOND** by MM
VOTE Unanimous
- b. **MOTION** by SM to approve 66 new CSLs issued during the month of November, 2015. **SECOND** by MM.
VOTE Unanimous
- c. **MOTION** by SM to approve one (1) new CSL, due to special considerations. **SECOND** by MM.

DISCUSSION RA explained the special circumstances where Mr. Rickaby was unable to apply for his licensure for more than one year following his successful passing of the CSL exam.

VOTE Unanimous

- d. **MOTION** by MM to approve one (1) new CSL resulting from an *averaged* passing score. **SECOND** by SM.
VOTE 6 in favor; 2 abstain (RA, KG)
- e. **MOTION** by MM to approve the reinstatement of two (2) CSL for medical reasons. **SECOND** by SM
VOTE: Unanimous.

- 8. **Request for review** of CSL decision. DH provided the members with the summary of the decision, and explained that the decision required the applicant to submit a request for reinstatement to the BBRS prior to reissuance of the license (**EXHIBIT E**). DH noted that this individual would like to have the decision re-evaluated by the Board.

MOTION by MM to reinstate the license of Richard Annaian (CSL# CS-071602), and concurring with the decision of the Hearing Officer.
SECOND by SM.
VOTE Unanimous.

- 9. **Review** and approval of actions contained in the BOCC meeting minutes from November 3, 2015 (**EXHIBIT F**).

MOTION by MM to endorse the suspension of George Peterson, and all other actions of the BOCC from their November 3, 2015 meeting.

SECOND by SM.

VOTE: Unanimous

10. **Review** of open web joists conforming to ICC ESR 2999. FZ noted that he spoke with ICC, and they are in the process of developing a new acceptance criteria for open-web trusses, which should be out in the next few months.

MOTION by KG to table discussion of open-web trusses until such time that a new acceptance criteria is released by the ICC, which incorporates fire protection of floors.

SECOND by MM.

VOTE Unanimous

11. **Discuss** BBRS/DPS Staff update. RA thanked FZ and DH for their updates on the 9th Edition process, and all of their work.

12. **Discuss** Technical Advisory Committee update. FZ presented the board with updates to the draft composition of the Technical Advisory Committees (**EXHIBIT G**). JN raised concerns about the process by which members will be selected and about the code consultant position on the Chapter 34 committee. JN also recommended replacing at least one of the code consultant positions with a fire chief and/or a fire prevention officer. FZ explained that although the code does permit the chair to appoint members, the chair has noted that he wants a full application, review, and appointment process in order to have the best advisory boards possible. FZ also noted that he will work on a definition of a code consultant for the January meeting.

13. **Discuss and review** Local Building Code Appeals Board hearing and documentation / approval process. SM noted that Boston appeals may be non-existent since the issues arose between them and the AAB. He said that they were historically handled through the zoning board. DW noted that he will attempt to provide staff with a listing of other municipalities that have local boards of appeals. RC said that he would like further discussion tabled until the next meeting, in January 2016.

14. **Discuss** other matters not reasonably anticipated 2 business days in advance of the meeting.

- a. FZ told the board that GB would also like to discuss sprinklers in Bed and Breakfast facilities. RC asked staff to provide formal language to be discussed at a future meeting or the public hearing.
- b. FZ noted that the members of the Fire Protection Association of MA were concerned about the fire separation provisions in townhouses. FZ asked the chair if he would like FZ to work with DFS staff to develop a formal interpretation of the fire-rated assembly provisions for townhouses, and if the board would agree to have this interpretation require that the assembly extend through the roof. Extensive discussion occurred about if it should end below the sheathing, or go through the roof. JN explained the differences between assembly types. The chair directed FZ to work with DFS about developing the formal interpretation, as recommended by FZ.
- c. PM raised a concern about occupant loads in the Residential volume, and asked if the BBRS would direct staff to draft standards, or frequently asked questions, for occupant loads in residential occupancies. RC asked staff to look into this in the coming months.

15. **Approve** adjourning the meeting. **MOTION** by MM to adjourn the meeting. **SECOND** by SM. **VOTE:** Unanimous

Meeting adjourned at 4:17 PM.

EXHIBITS:

- A. BBRS Meeting agenda 12-08-2015
- B. BBRS Meeting Minutes 10-13-2015 (*Approved as amended*)
- C. BBRS Meeting Minutes 11-10-2015
- D. 780 CMR 9th Edition discussion topics for 12/08/2015 BBRS meeting
- E. Request for review by George Annaian (CSL# CS-071602)
- F. Meeting minutes from the BOCC November 3, 2015 meeting.
- G. DRAFT updated Technical Advisory Committee composition.
- H. Audience sign-in sheet of those in attendance at the 11-10-2015 BBRS monthly meeting.